IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2940 of 2005

Between:

1 M/s.Veerabhadra Industries rep.by its partner Sri M.Veda Prakash, S/o.M.Veerappa, R/o.H.No.16-2-146/4, Malakpet, Hyerabad.
2 M.Veerappa, S/o.Chennamalappa, R/o.Malakpet Hyderabad.

3 M.Veda Prakash, S/o.M.Veerappa, R/o.Malakpet Hyderabad.
4 M.Vijayeshwar, S/o.Veerappa, R/o.Malakpet Hyderabad.
5 M.Vishwanath, S/o.Veerappa, R/o.Malakpet Hyderabad.
6 M.Gyaneshwar, S/o.M.Veerappa, R/o.Malakpet Hyderabad.

..... PETITIONERS

AND

1 The State of A.P. rep. by its Prl.Secretary to Revenue, Government of A.P.Hyderabad.
2 The Commissioner Appeals, Urban Land Ceilings, Hyderabad.
3 The Special officer and Competent Authority, Urban Land Ceilings, Hyderabad.
4 The Mandal Revenue officer, Balanagar Mandal, Hyderabad.
5 The Station House officer, Balanagar police Station, Balanagar, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of certiorari calling for the records relating to order in urban Land ceiling Appeal No.Hyd/935/90, dated 23-8-2001 confirming the order of the 3rd respondent vide reference No.G1/3548/76, dated 30-5-1990 and quash the same as being illegal, arbitrary and violative of the provisions of the Act, U/s.2(e), 2(g)(i), 2(g)(ii) and 4(11) and also the law laid down by the Hon'ble Supreme Court in Smt.Meera Gupta VS. State of West Bengal reported in AIR 1992 SC 1567 and violative of Articles 14, 21

and 300-A of the constitution of India and further declaring that the protected buildings properties of the petitioners are out side the purview of the provisions of the Urban Land ceiling Act as per section 2(g)(i), 2(g)(ii) and 4(11) and also as per G.O.Ms.No.733 Rev. UC-II, Dept., dated 31-10-1988 and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.C.HANUMANTHA RAO

Counsel for the Respondents : GP FOR URBAN LAND CEILING

The Court made the following :

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THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2940 OF 2005

ORDER :

Aggrieved by the notice issued by the 3rd respondent – Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad under Section 10(5) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the Act'), dated 30-05-1990 whereunder the 1st petitioner herein was directed to surrender an extent of 1,781.82 sq.mts. of surplus land in Plot No.98, Sy.No.374 of Kukatpally in R.R. District, the petitioners herein filed an Appeal under Section 33 of the Act. The said Appeal was dismissed by the 1st respondent by order dated 23-08-2001 holding that the competent authority has rightly treated the 1st petitioner as the holder of the vacant land and therefore there was no reason to interfere with the notice under Section 10(5) of the Act issued by the competent authority. However, it was observed that the competent authority shall ascertain the outcome of the exemption petition filed before the Government and take action on the basis of such outcome.

The said order dated 23-08-2001 is under challenge in this writ petition on various grounds including that the buildings in question are outside the purview of the Act as they cannot be treated as vacant land as well as that the provisions are inapplicable in view of the automatic exemption available to the petitioners as per

G.O.Ms.No.733, Revenue (UC-III) Department, dated 31-10-1988.

At the outset, it is to be noted that there is absolutely no plea in the affidavit filed in support of the writ petition explaining the delay of more than three years on their part in approaching this Court for grant of discretionary relief under Article 226 of the Constitution of India. It is not open to the petitioners to claim the discretionary relief under Article 226 of the Constitution of India as a matter of course as per their own convenience. It is true that the delay or laches is not an absolute bar to grant the relief, but in the absence of any explanation to satisfy this Court that the facts and circumstances of the case justify the laches or delay on their part in approaching the Court, I am of the view that the petitioners cannot be granted any relief and that the writ petition is liable to be dismissed in limine on the ground of laches alone.

Accordingly, the Writ Petition is dismissed. No costs.

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21st February, 2005.

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To

1 The Principal Secretary to Revenue, State of A.P., Government of A.P.,Hyderabad.
2 The Commissioner Appeals, Urban Land Ceilings, Hyderabad.
3 The Special officer and Competent Authority, Urban Land Ceilings, Hyderabad.
4 The Mandal Revenue officer, Balanagar Mandal, Hyderabad.
5 The Station House officer, Balanagar police Station, Balanagar, Ranga Reddy District.

6. Two CCs to G.P. for Urban Land Ceiling, High Court of AP Bldgs, Hyderabad (OUT).

7. 2 CD copies